

# **EXHIBIT A**



HAGENS BERMAN



EXPERIENCE.  
INNOVATION.  
RESULTS.





HAGENS BERMAN

ATTORNEYS AT LAW

**HAGENS BERMAN SOBOL SHAPIRO LLP**  
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## HAGENS BERMAN SOBOL SHAPIRO LLP

Hagens Berman Sobol Shapiro LLP (“HBSS”) was founded in 1993 with one purpose: to help victims with claims of fraud and negligence that adversely impact a broad group. The firm initially focused on class action and other types of complex, multi-party litigation, but we have always represented plaintiffs/victims. As the firm grew, it expanded its scope while staying true to its mission of taking on important cases that implicate the public interest. With more than 75 lawyers and offices in eight cities across the United States, the firm represents plaintiffs including investors, consumers, inventors, workers, the environment, governments, whistleblowers and others in a diverse array of cases.<sup>1</sup>

### PHARMACEUTICAL LITIGATION

HBSS aggressively pursues pharmaceutical pricing litigation, helping lead the litigation fight for more affordable prescription drugs and for a more responsible pharmaceutical and medical device industry. HBSS works with consumers, for-profit and not-for-profit health insurers, consumer organizations, state Attorneys General, third-party payers, drug wholesalers and retailers, and other purchasers. Our pursuit of pharmaceutical manufacturer misconduct has resulted in recoveries to prescription drug purchasers well in excess of one billion dollars, and has yielded industry-wide, fundamental price changes.

HBSS – as lead or co-lead class counsel – has brought about significant settlements in several antitrust and RICO class cases involving prescription drugs. In most cases, the plaintiffs alleged that a manufacturer of a brand name drug violated federal or state laws by either delaying its generic competitors from coming to market (thereby forcing purchasers of prescription drugs to buy the more expensive brand instead of the less expensive generic equivalent) or misrepresenting the safety and efficacy of a drug (thereby causing payers to pay more for the drug than they would have otherwise). Significant resolutions in the last ten years include:

- **The Major First Databank Price Rollback**

On September 4, 2009, the First Circuit Court of Appeals affirmed a settlement rolling back benchmark prices on hundreds of prescription medications. HBSS served as court appointed lead class counsel in this case by health benefit plans and consumers against FirstDataBank (“FDB”) and Medi-Span, two leading drug pricing publishers. Plaintiffs claimed that beginning in 2001, FDB and McKesson secretly agreed to raise the markup between the Wholesale Acquisition Cost (“WAC”) and the Average Wholesale Price (“AWP”) from 20 to 25 percent for more than 400 drugs, resulting in higher profits for retail pharmacies at the expense of consumers and payers. Under the terms of the settlement, FDB agreed to roll back pricing by five basis points, from 1.25 to 1.20, on hundreds of drugs, resulting in cost-savings that continue to this day. *New England Carpenters Health Benefits Fund et al v. First DataBank, Inc. and McKesson Corp.*, D. Mass., Civil Action No. 05-cv-11148-PBS; *District Council 37 Health and Security Plan et al v. Medi-Span*, D. Mass., Civil Action No. 07-cv-10988-PBS

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<sup>1</sup> Additional information about HBSS, our cases, and our lawyers can be found at [www.hbsslaw.com](http://www.hbsslaw.com).

May 2019

- **\$350 Million for Consumers and Third Party Payers in RICO Action Against McKesson**

In August 2009, the Honorable Patti B. Saris of the District of Massachusetts approved a \$350 million nationwide settlement with McKesson Corporation on behalf of consumers and health plans for McKesson's role in misreporting the average wholesale price of prescription drugs. HBSS served as lead class counsel. *New England Carpenters Health Benefits Fund et al v. First DataBank, Inc. and McKesson Corp.*, D. Mass., Civil Action No. 05-cv-11148-PBS

- **\$325 Million Proposed Recovery for Third Party Payers for Neurontin Marketing Fraud**

In November 2014, the Honorable Patti Saris of the District of Massachusetts approved a \$325 million classwide settlement for third party payers alleging Parke Davis, a subsidiary of Pfizer, engaged in widespread and fraudulent off-label marketing, misleading the health care community into believing that Neurontin was effective for a variety of uses for which it was not approved. HBSS served as liaison counsel and a member of the Plaintiffs' Steering Committee. The class settlement followed a \$142 million verdict in related litigation on behalf of Kaiser, where HBSS served as trial counsel. *In re Neurontin Marketing, Sales Practices, and Products Liability Litigation*, D. Mass., MDL No. 1629

- **\$189 Million Bankruptcy Resolution for contaminated MPA made by New England Compounding Company**

In May 2015, the Honorable Henry J. Boroff of the United States Bankruptcy Court for the District of Massachusetts confirmed a Chapter 11 plan for NECC that included tort settlements totaling more than \$189 million in contributions from NECC's owners, affiliate companies, vendors, and their insurers, as well as several independent clinics, hospitals, doctor's offices, and their respective insurers for having administered the contaminated injections compounded by NECC. HBSS served as court-appointed lead counsel in the MDL. *In re New England Compounding Pharmacy, Inc.*, D. Mass., MDL No. 2419.; *In re New England Compounding Pharmacy, Inc. (Chapter 11)*, Bankr. D. Mass., 12-br-19882-HJB

- **\$166 Million Recovery in Lidoderm Antitrust Action**

In September 2018, the Honorable William Orrick of the Northern District of California granted final approval to a \$166 million class settlement for direct purchasers of brand and generic Lidoderm. HBSS served as co-lead class counsel challenging a reverse payment agreement between Endo Pharmaceuticals and Actavis that delayed generic competition for Lidoderm for more than one year. *In re Lidoderm Antitrust Litigation*, N.D. Ca., MDL No. 2521

- **\$150 Million Recovery in Antitrust Action Concerning Flonase**

In June 2013, the Honorable Anita Brody of the Eastern District of Pennsylvania approved a \$150 million settlement on behalf of direct purchasers who bought the nasal spray Flonase from the defendant, GlaxoSmithKline. The plaintiffs alleged that GSK submitted a sham citizen petition to the FDA that, intentionally and actually, delayed the approval of generic versions of Flonase. HBSS served as court appointed co-lead class counsel for the direct purchaser class. *In re Flonase Antitrust Litigation*, E.D. Pa., Civil Action No. 08-cv-3149

- **\$146 Million Recovery in Aggrenox Antitrust Litigation**

In December 2017, the Honorable Stefan Underhill of the District of Connecticut granted final approval to a \$146 million class settlement for direct purchasers of brand and generic Aggrenox. HBSS served on the three-member Executive Committee on behalf of the direct purchaser class in this case alleging that brand manufacturer entered into an unlawful reverse-payment agreement with generic manufacturer Teva in order to delay market availability of generic formulations of Aggrenox. *In re Aggrenox Antitrust Litigation*, D. Conn., MDL No. 2516

May 2019

- **\$98 Million Recovery in Antitrust Action Concerning Prograf**

In May 2015, the Honorable Rya Zobel of the District of Massachusetts approved a \$98 million class settlement for direct purchasers in the Prograf antitrust MDL. The direct purchaser class plaintiffs alleged Astellas submitted a sham petition to the FDA to delay approval of generic versions of the immunosuppressant Prograf. *In re Prograf Antitrust Litigation*, D. Mass., MDL No. 2242

- **\$94 Million Recovery in Celebrex Antitrust Litigation**

In April 2018, the Honorable Arenda Wright Allen of the Eastern District of Virginia granted final approval to a \$94 million class settlement for direct purchasers of brand and generic Celebrex. HBSS was sole lead counsel in this case that alleged Pfizer obtained reissuance of a patent that provided an additional eighteen months of patent protection for Celebrex by making misrepresentations and omissions to the Patent and Trademark Office; Pfizer then asserted that bogus patent to delay generics from coming to market, in violation of federal antitrust law. The case settled mere weeks before trial. *American Sales Co. LLC v. Pfizer, Inc.*, E.D. Va. (Norfolk Division) 14-cv-00361

- **\$80 Million Settlement in TPP Action Concerning Vioxx**

HBSS served as court appointed lead counsel for third party payers in the Vioxx MDL, alleging Merck and Company, Inc. launched misleading marketing campaigns for the drug, misleading physicians, consumers, and health benefit providers it touting Vioxx as a superior product to other non-steroidal anti-inflammatory drugs when the drug had no appreciable differences from less expensive medications but did have an increased risk of causing cardiovascular events. HBSS negotiated a \$65 million non-class settlement, entered into on September 14, 2009, between Merck and scores of individually represented third party payers, along with a \$15 million fund for payment of common benefit fees. *In re Vioxx Products Liability Litigation*, E.D. La., MDL No. 1657

- **\$73 Million Recovery in Antitrust Action Concerning Skelaxin**

In September 2014, the Honorable Curtis Collier of the Eastern District of Tennessee approved a \$73 million settlement on behalf of a class of direct purchasers of Skelaxin. HBSS served as court-appointed sole lead class counsel for the direct purchaser class. *In re Skelaxin (Metaxalone) Antitrust Litigation*, E.D. Tenn., Civil Action No. 12-md-2343

- **\$72.5 Million Recovery in Solodyn Antitrust Action**

In July 2018, the Honorable Denise J. Casper of the District of Massachusetts granted final approval to a \$72.5 million class settlement for direct purchasers of brand and generic Solodyn. HBSS was co-lead class counsel in this case alleging Medicis entered into a series of reverse payment deals to delay entry of generic Solodyn and used the period of delay to effectuate a product hop, all resulting in overcharges by direct purchasers. The case settled three days before trial. *In re Solodyn Antitrust Litigation*, D. Mass., MDL No. 2503

- **\$65.7 Million Recovery in Antitrust Action Concerning Tricor**

In October 2009, Chief Judge Sue Robinson of the District of Delaware approved a \$65.7 million recovery for consumers and third party payers who sued Abbott Laboratories and Fournier Industries in an antitrust action concerning the cholesterol drug Tricor. The plaintiffs alleged Abbott and Fournier manipulated the statutory framework regulating the market for pharmaceuticals by instituting baseless patent litigation against generic manufacturers and switching of dosage strengths and forms, resulting in delayed entry of generics and thus lower prices into the market. HBSS served as court appointed co-lead class counsel. *In re Tricor Indirect Purchaser Antitrust Litigation*, D. Del., Civil Action No. 05-cv-360

May 2019

## TRIALS

HBSS takes cases to trial. We believe excellence stems from a commitment to try each case, vigorously represent the best interests of our clients, and obtain maximum recovery. Our opponents know we are determined and tenacious; they respect our skills and recognize our track record of achieving top results. We take more class or complex litigation cases to trial than any firm we know and recent success include:

- **Permanent Injunction on NCAA “Agreeing to Fix or Limit Compensation or Benefits Related to Education”**

HBSS represented student athletes suing the NCAA and its most powerful conferences, including the Pac-12, Big Ten, Big-12, SEC and ACC, on behalf of approximately 40,000 Division I collegiate athletes who played men’s or women’s basketball, or FBS football, claiming violations of the federal antitrust laws by drastically reducing the number of scholarships and the financial aid student-athletes receive to an amount below the actual cost of attendance and far below what the free market would bear. As co-lead class counsel, HBSS secured a \$208 million settlement, amounting to 100% of single damages. Continuing, HBSS co-led the 2018 trial on the injunctive aspect of the case, resulting in a change in NCAA rules limiting the financial treatment of athletes. *In re National Collegiate Athletic Association Athlete Grant-In-Aid Cap Antitrust Litigation*, N.D.Cal., No. 14-md-02541

- **\$383.5 Million Jury Verdict in Colorado for Three Families**

In June 2018, following a one-and-a-half week trial, a jury in the United States District Court for Colorado returned a \$383.5 million verdict against DaVita Inc. to families of three patients who suffered cardiac arrests and died after receiving dialysis treatments at DaVita clinics. HBSS represented the families and served as lead trial counsel. *Menchaca, et al., v. DaVita Inc.*, D. Colo., No. 15-cv-2106-RBJ

- **Over \$250 Million in Settlements with Several Drug Companies for Artificially Inflating AWP**

In 2007, the Honorable Patti Saris of the District of Massachusetts presided over a six-week trial that culminated in class settlements with individual defendants of \$125 million, \$75 million, \$22.5 million, and \$12 million. HBSS served as co-lead counsel and trial counsel in this litigation alleging systemic abuse through artificial inflation of the so-called “average wholesale price” or “AWP” that is used as a benchmark for almost all prescription drug sales in the United States. *In Re: Pharmaceutical Industry Average Wholesale Price Litigation*, D.Mass., MDL No. 1456

- **\$142 Million Civil RICO Jury Verdict in Massachusetts Over Neurontin**

In March 2009, following a four-and-a-half week trial and two days of deliberations, a jury in the United States District Court for Massachusetts returned a \$142 million RICO verdict against Pfizer, Warner Lambert, and Parke Davis in a suit related to Pfizer’s fraudulent and unlawful promotion of the drug Neurontin. HBSS served as co-lead trial counsel for Plaintiffs Kaiser Foundation Health Plans and Kaiser Foundation Hospitals. *Kaiser Foundation Health Plan, et al v. Pfizer, Inc., et al*, D.Mass., No. 04-cv-10739 (PBS)

- **Proved Antitrust Violation in First Reverse Payment Case Tried**

HBSS served as co-lead class counsel and lead trial counsel for direct purchaser in *In re Nexium (Esomeprazole Magnesium) Antitrust Litigation*, alleging an unlawful reverse payment agreement to delay generic versions of the drug Nexium from coming to market. Following a seven week trial, despite a defense verdict, the jury agreed with the plaintiffs that AstraZeneca had market power and had committed an antitrust violation. *In re Nexium (Esomeprazole Magnesium) Antitrust Litigation*, D. Mass., No. 12-md-02409-WGY

May 2019

## GOVERNMENT REPRESENTATION

HBSS has been selected by public officials to represent government agencies and bring civil law enforcement and damage recoupment actions designed to protect citizens and the treasury. We understand the needs of elected officials and the obligation to impartially and zealously represent the interests of the public, are often chosen after competitive bidding and have been hired by officials from across the political spectrum. HBSS has assisted governments in recovering billions of dollars in damages and penalties from corporate wrongdoers and, in the process, helped reform how some industries do business. In serving government, we are often able to leverage the firm's expertise and success in related private class-action litigation. Successes on behalf of government clients include:

- **State Average Wholesale Price Litigation**

Building on the firm's development of the AWP litigation and representation of consumers and end payors therein, HBSS was retained by multiple states and represented them successfully in litigation.

- **McKesson Government Litigation**

On the heels of HBSS's class action against McKesson, the firm obtained through litigation recoveries for multiple states three to seven times larger than states settling in the multi-state Attorneys General settlement. In addition, the firm obtained \$12.5 million for the City of San Francisco and \$82 million for a nationwide class of public payors.

- **Connecticut Zyprexa Fraud Litigation**

HBSS served as outside counsel to Attorney General Richard Blumenthal and recovered \$25 million for the state in litigation that alleged Lilly engaged in unlawful off-label promotion of the atypical antipsychotic Zyprexa and made significant misrepresentations about Zyprexa's safety and efficacy, resulting in millions of dollars in excess pharmaceutical costs borne by the State and its taxpayers.

- **Big Tobacco Litigation**

HBSS represented 13 states in landmark Medicaid-recoupment litigation against the country's major tobacco companies. HBSS served as trial counsel for the state of Washington, one of only two states to go to trial. HBSS was instrumental in developing what came to be accepted as the predominant legal tactic to use against the tobacco industry: emphasizing traditional law enforcement claims such as state consumer protection, antitrust and racketeering laws. This approach proved to be nearly universally successful at the pleading stage, leaving the industry vulnerable to a profits-disgorgement remedy, penalties and double damages. The firm also focused state legal claims on the industry's practice of luring children to tobacco use. Ultimately, the tobacco industry settled for \$206 billion for state programs, the largest settlement in the history of civil litigation in the U.S.



PARTNER, EXECUTIVE COMMITTEE MEMBER

## Thomas M. Sobol

Voted Massachusetts Ten Leading Litigators  
—The National Law Journal

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**YEARS OF EXPERIENCE**  
35

**PRACTICE AREAS**

› Pharmaceutical Fraud  
› Consumer Protection  
› Antitrust Litigation

**BAR ADMISSIONS**

› Massachusetts  
› Rhode Island

**COURT ADMISSIONS**

› First Circuit Court of Appeals  
› Second Circuit Court of Appeals  
› Supreme Court of the United States

**EDUCATION**

› Boston University School of Law, J.D., *cum laude*, 1983  
› Clark University, B.A., *summa cum laude*, Phi Beta Kappa, 1980

**CURRENT ROLE**

- › Partner & Executive Committee Member, Hagens Berman Sobol Shapiro LLP
- › Leads Hagens Berman's Boston office
- › Leader in drug pricing litigation efforts against numerous pharmaceutical and medical device companies
- › Lead negotiator in court-approved settlements totaling more than \$2 billion
- › Currently court-appointed co-lead counsel in *Meijer Inc. v. Ranbaxy Inc.* and court-appointed lead counsel for *In re Restasis Antitrust Litigation*, *In re Zetia (Ezetimibe) Antitrust Litigation*, *In re Intuniv Antitrust Litigation*, *In re Niaspan Antitrust Litigation*, *In re Loestrin 24 Fe Antitrust Litigation*, *In re Suboxone Antitrust Litigation*, *In re Lipitor Antitrust Litigation*, and *In re Effexor Antitrust Litigation*
- › Appointed lead counsel in MDL No. 2149: *In re New England Compounding Pharmacy Litigation Multidistrict Litigation*, representing more than 700 victims who contracted fungal meningitis or other serious health problems as a result of receiving contaminated products produced by NECC, resulting in a \$200 million settlement
- › Lead counsel to the Prescription Access Litigation (PAL) project, the largest coalition of health care advocacy groups that fight illegal, loophole-based overpricing by pharmaceutical companies

**RECENT SUCCESS**

- › *Lidoderm direct purchaser litigation settlement* (\$166 million)
- › *Solodyn direct purchaser litigation settlement* (\$72.5 million)
- › *Celebrex direct purchaser litigation settlement* (\$94 million)
- › *Aggrenox direct purchaser litigation settlement* (\$146 million)
- › *Asacol direct purchaser litigation settlement* (\$15 million)
- › *Neurontin class action marketing settlement* (\$325 million)
- › *NECC meningitis outbreak settlement* (\$200 million)
- › *Prograf direct purhcaser litigation settlement* (\$98 million)
- › *Flonase direct purchaser litigation settlement* (\$150 million)
- › *Wellbutrin XL direct purchaser litigation* (\$37.5 million)
- › *First Databank litigation* (4% price reduction of most retail drugs)
- › *McKesson litigation* (\$350 million)
- › *Zyprexa litigation on behalf of the State of Connecticut* (\$25 million)
- › *Vioxx third party payor litigation* (\$80 million)
- › *Paxil direct purchaser litigation* (\$150 million)
- › *Co-lead trial counsel in the Neurontin MDL* (\$142 million RICO jury verdict)

**RECOGNITION**

- › Massachusetts Ten Leading Litigators, *The National Law Journal*

**PARTNER, EXECUTIVE COMMITTEE MEMBER**

**Thomas M. Sobol**

**EXPERIENCE**

- › Seventeen years in large Boston firm handling large complex civil litigation
- › Special Assistant Attorney General for the Commonwealth of Massachusetts and the states of New Hampshire and Rhode Island
- › Private counsel for Massachusetts and New Hampshire in ground breaking litigation against tobacco industry (Significant injunctive relief and recovery of more than \$10 billion)
- › Judicial clerk for Chief Justice Allan M. Hale, Massachusetts Appeals Court, 1983-1984
- › Board Chairman, New England Shelter for Homeless Veterans, 1995-2002

**NOTABLE CASES**

- › **\$166 Million Recovery in Lidoderm Antitrust Action**

In September 2018, the Honorable William Orrick of the Northern District of California granted final approval to a \$166 million class settlement for direct purchasers of brand and generic Lidoderm. HBSS served as co-lead class counsel challenging a reverse payment agreement between Endo Pharmaceuticals and Actavis that delayed generic competition for Lidoderm for more than one year.

*In re Lidoderm Antitrust Litigation, N.D. Ca., MDL No. 2521*

- › **\$72.5 Million Recovery in Solodyn Antitrust Action**

In July 2018, the Honorable Denise J. Casper of the District of Massachusetts granted final approval to a \$72.5 million class settlement for direct purchasers of brand and generic Solodyn. HBSS was co-lead class counsel in this case alleging Medicis entered into a series of reverse payment deals to delay entry of generic Solodyn and used the period of delay to effectuate a product hop, all resulting in overcharges by direct purchasers. The case settled three days before trial.

*In re Solodyn Antitrust Litigation, D. Mass., MDL No. 2503*

- › **\$94 Million Recovery in Celebrex Antitrust Litigation**

In April 2018, the Honorable Arenda Wright Allen of the Eastern District of Virginia granted final approval to a \$94 million class settlement for direct purchasers of brand and generic Celebrex. HBSS was sole lead counsel in this case that alleged Pfizer obtained reissuance of a patent that provided an additional eighteen months of patent protection for Celebrex by making misrepresentations and omissions to the Patent and Trademark Office; Pfizer then asserted that bogus patent to delay generics from coming to market, in violation of federal antitrust law. The case settled mere weeks before trial.

*American Sales Co. LLC v. Pfizer, Inc., E.D. Va. (Norfolk Division) 14-cv-00361*

- › **\$146 Million Recovery in Aggrenox Antitrust Litigation**

In December 2017, the Honorable Stefan Underhill of the District of Connecticut granted final approval to a \$146 million class settlement for direct purchasers of brand and generic Aggrenox. HBSS served on the three-member Executive Committee on behalf of the direct purchaser class in this case alleging that brand manufacturer entered into an unlawful reverse-payment agreement with generic manufacturer Teva in order to delay market availability of generic formulations of Aggrenox.

*In re Aggrenox Antitrust Litigation, D. Conn., MDL No. 2516*

**PARTNER, EXECUTIVE COMMITTEE MEMBER**

**Thomas M. Sobol**

› **\$15 Million Settlement of Antitrust Action Involving Asacol**

In December 2017, the Honorable Denise Casper of the District of Massachusetts granted final approval to a \$15 million settlement on behalf of direct purchasers of Asacol. HBSS served as one member of an Executive Committee in this product hopping case against brand manufacturer Allergan plc and its predecessor Warner Chilcott alleging Warner Chilcott made minor, immaterial changes to its Asacol formulation, e.g., changing the dosage amount from 400mg to 800mg, and later changing the dosage form from tablet to capsule, for the sole purpose of preventing generic manufacturers from obtaining FDA approval for a generic product that could be automatically substituted for Asacol.

*In re Asacol Antitrust Litigation, D. Mass. 15-cv-12730*

› **\$189 Million Bankruptcy Resolution for contaminated MPA made by New England Compounding Company**

In May 2015, the Honorable Henry J. Boroff of the United States Bankruptcy Court for the District of Massachusetts confirmed a Chapter 11 plan for NECC that included tort settlements totaling more than \$189 million in contributions from NECC's owners, affiliate companies, vendors, and their insurers, as well as several independent clinics, hospitals, doctor's offices, and their respective insurers for having administered the contaminated injections compounded by NECC. HBSS served as court-appointed lead counsel in the MDL.

*In re New England Compounding Pharmacy, Inc., D. Mass., MDL No. 2419; In re New England Compounding Pharmacy, Inc. (Chapter 11), Bankr. D. Mass., 12-br-19882-HJB*

› **\$350 Million for Consumers and Third Party Payers in RICO Action Against McKesson**

In August 2009, the Honorable Patti B. Saris of the District of Massachusetts approved a \$350 million nationwide settlement with McKesson Corporation on behalf of consumers and health plans for McKesson's role in misreporting the average wholesale price of prescription drugs. HBSS served as lead class counsel.

*New England Carpenters Health Benefits Fund et al v. First DataBank, Inc. and McKesson Corp., D. Mass., Civil Action No. 05-cv-11148-PBS*

› **\$142 Million Civil RICO Jury Verdict in Massachusetts Over Neurontin**

On Mar. 25, 2010, following a four-and-a-half week trial and two days of deliberations, a jury in the U.S. District Court for Massachusetts returned a \$142 million RICO verdict against Pfizer, Warner Lambert and Parke Davis in a suit related to Pfizer's fraudulent and unlawful promotion of the drug Neurontin. The jury also found, in an advisory capacity, that defendants violated the California Unfair Competition Law. HBSS served as co-lead trial counsel for plaintiffs Kaiser Foundation Health Plans and Kaiser Foundation Hospitals. HBSS attorneys played a pivotal role in preparing the case for trial. Thomas Sobol, managing partner of the HBSS Boston office, examined seven economic and scientific experts and presented the evidence of Defendants' decade-long campaign of fraudulent and deceptive actions in his closing argument that resulted in the RICO verdict. Post-trial briefing is underway and a final judgment has not yet been entered.

*Kaiser Foundation Health Plan, et al v. Pfizer, Inc., et al, D.Mass., Civil Action No. 04-cv-10739 (PBS).*

› **\$150 Million Resolution on Behalf of Direct Purchasers of Paxil**

HBSS announced a \$150 million resolution of claims in 2004 in litigation on behalf of direct purchasers of the "blockbuster" selective serotonin reuptake inhibitor Paxil, manufactured by GlaxoSmithKline Corporation. The suit alleged that GSK engaged in sham litigation with respect to certain patents, all

**PARTNER, EXECUTIVE COMMITTEE MEMBER**

**Thomas M. Sobol**

in an effort to delay competition from the entry of a generic form of the drug. HBSS served as court-appointed Co-Lead Counsel.

*In re Paxil Direct Purchaser Litigation, E.D.Pa., Civil Action No. 03-4578.*

› **The Major First Databank Price Rollback**

On September 4, 2009, the First Circuit Court of Appeals affirmed a settlement between plaintiff health benefit plans and consumers in a class action against defendants First DataBank, Inc. ("FDB") and Medi-Span, two leading drug pricing publishers, that resulted in a rollback of benchmark prices of some of the most common prescription medications and is saving consumers and other purchasers hundreds of millions of dollars. The settlement stems from a 2005 class action lawsuit brought on behalf of health benefit plans and consumers against FDB and McKesson Corporation, a large pharmaceutical wholesaler. Plaintiffs claimed that beginning in 2001, FDB and McKesson secretly agreed to raise the markup between the Wholesale Acquisition Cost ("WAC") and the Average Wholesale Price ("AWP") from 20 to 25 percent for more than 400 drugs, resulting in higher profits for retail pharmacies at the expense of consumers and payers. HBSS served as court appointed lead class counsel.

On June 6, 2007, the Honorable Patti B. Saris preliminarily approved a settlement between the parties whereby FDB agreed to roll back pricing by five basis points, from 1.25 to 1.20, on the drugs included in the lawsuit as well as hundreds of other drugs, which should create cost-savings on a much broader range of prescription medications. Associations representing pharmacies and pharmacy benefit managers fought the proposed rollback before federal trial and appellate courts, claiming either that small pharmacies would be put out of business through implementation of the rollback or that the savings to health plans and consumers would not be enough to justify the settlement. The courts rejected these claims and the First Circuit Court of Appeals affirmed the settlement.

*New England Carpenters Health Benefits Fund et al v. First DataBank, Inc. and McKesson Corp.*, D.Mass., Civil Action No. 05-cv-11148-PBS; *District Council 37 Health and Security Plan et al v. Medi-Span*, D.Mass., Civil Action No. 07-cv-10988-PBS.

› **\$25 Million for the State of Connecticut for Zyprexa Fraud**

On Oct. 5, 2009, Judge Jack B. Weinstein, U.S. District Court Judge in the Eastern District of New York, entered an Order for Entry of Final Judgment in State of Connecticut v. Eli Lilly and Co., approving the \$25 million settlement reached by the parties to conclude the state's Zyprexa litigation. HBSS served as outside counsel to Attorney General Richard Blumenthal in the litigation that alleged Lilly engaged in unlawful off-label promotion of the atypical antipsychotic Zyprexa and made significant misrepresentations about Zyprexa's safety and efficacy, resulting in millions of dollars in excess pharmaceutical costs borne by the state and its taxpayers.

*State of Connecticut v. Eli Lilly & Co.*, E.D.N.Y., Civil Action No. 08-cv-955-JBW.

› **\$150 Million Settlement for Consumers and TPPs for Purchases of Lupron**

In late 2004, HBSS announced a proposed resolution on behalf of consumers and third-party payors of Lupron in the amount of \$150 million. The litigation alleged widespread fraudulent marketing and sales practices against TAP Pharmaceuticals, a joint venture between Abbott Laboratories and Takeda Pharmaceuticals, Inc., and followed TAP's agreement to pay \$875 million in combined criminal and civil penalties regarding marketing and sales practices for the prostate cancer drug Lupron. HBSS served as court-appointed Co-Lead and Liaison Counsel.

*In re Lupron Marketing and Sales Practices Litigation*, D.Mass., MDL No. 1430.



## PARTNER

# Lauren Guth Barnes

*Ms. Barnes was honored with the American Association for Justice's Marie Lambert Award in 2018, given to a female attorney in recognition of her exemplary leadership to the profession, to her community, to AAJ and to the Women Trial Lawyers Caucus.*

## CONTACT

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## YEARS OF EXPERIENCE

> 14

## PRACTICE AREAS

> Antitrust Litigation  
> Class Actions  
> Consumer Rights  
> Mass Torts  
> Medical Devices  
> Pharmaceuticals/Health Care Fraud  
> RICO

## BAR ADMISSIONS

> Massachusetts

## COURT ADMISSIONS

> U.S. District Court, District of Massachusetts  
> U.S. Court of Appeals, Second Circuit, Eleventh Circuit  
> Supreme Court of the United States

## EDUCATION

> Boston College Law School, J.D., *cum laude*, Articles Editor, Boston College Law Review, 2005  
> Williams College, B.A., International Relations, *cum laude*, 1998

## CURRENT ROLE

- > Partner, Hagens Berman Sobol Shapiro LLP
- > Practice focuses on antitrust, consumer protection and RICO litigation against drug and medical device manufacturers in complex class actions and personal injury cases for consumers, large and small health plans, direct purchasers and state governments
- > Secured \$72.5 million class settlement for direct purchaser three days before trial in MDL 2503: *In re Solodyn Antitrust Litigation*
- > Helped reach a \$73 million class settlement for direct purchasers in MDL No. 2343: *In re Skelaxin Antitrust Litigation*
- > Co-lead class counsel for direct purchasers in *In re Intuniv Antitrust Litigation*, *In re Niaspan Antitrust Litigation*, *In re Solodyn Antitrust Litigation* and *In re Asacol Antitrust Litigation*
- > Liaison counsel for *In re Fresenius Granuflo/Naturalyte Dialysate Products Liability Litigation*
- > Represented the state of Connecticut and helped secure a \$25M settlement in its' action against Eli Lilly over unlawful promotion of and misrepresentation about Zyprexa
- > Represented health benefit providers in the firm's Ketek and copay subsidies class litigation, and individuals harmed by pharmaceuticals such as Yaz, Actos and Granuflo and medical devices including pelvic mesh
- > Pro bono counsel in a successful constitutional challenge to the Commonwealth of Massachusetts' exclusion of legal immigrants from the state's universal healthcare program

## RECOGNITION

- > AAJ Marie Lambert Award (2018)
- > AAJ Distinguished Service Award (2018, 2017, 2015)
- > AAJ Women's Caucus Excellence in Leadership Award (2017)
- > AAJ Above and Beyond Award (2016)
- > National Law Journal Boston Rising Star Award (2014)
- > Massachusetts Academy of Trial Attorneys President's Award (2014)
- > Massachusetts Bar Association Up & Coming Lawyer Award (2013)
- > AAJ New Lawyers Division Excellence Award (2010, 2011, 2013, 2014)
- > AAJ New Lawyers Division Above and Beyond Award (2012)
- > AAJ Wiedemann & Wysocki Award (2012, 2013)

**PARTNER**

## Lauren Guth Barnes

**EXPERIENCE**

- › Serves on the Board of On The Rise, a Cambridge, MA daytime shelter for homeless women and women in crisis
- › Active in the fights against forced arbitration federal preemption of consumer rights, working to ensure the public maintains access to the civil justice system and the ability to seek remedies when companies violate the law
- › Co-authored an amicus brief to the Supreme Court in *Pliva v. Mensing* on this issue on behalf of practitioners and professors who teach and write on various aspects of pharmaceutical regulation and the delivery of healthcare
- › Worked at Conflict Management Group where she worked with members of the United Nations High Commissioner for Refugees on a pilot project in Bosnia-Herzegovina designed to ease tensions and encourage reconciliation in post-conflict societies, and contributed to *Imagine Coexistence*, a book developed out of the collaboration

**LEGAL ACTIVITIES**

- › Institute for Complex Litigation and Mass Claims, Next Gen Advising Board (2015-present)
- › American Association for Justice (AAJ)
  - Executive Committee, Former Member (2014-2018)
  - Board of Governors, Member (2012-present)
  - Antitrust Litigation Group, former Chair (2016-2018)
  - Women Trial Lawyers Caucus, Former Chair (2012-2013)
  - Class Action Litigation Group, Former Co-Chair (2011-2012)
  - New Lawyers Division, Board of Governors (2009 to present)
  - Committees (various), Member
  - AAJ Trial Lawyers Care Task Force, Member (2012-present)
- › Massachusetts Academy of Trial Attorneys
  - Executive Committee, Member (2012-2013; 2017-present)
  - Board of Governors, Member (2011-present)
  - Women's Caucus, Co-Chair (2008 to present)
- › Boston Bar Association, Class Action Committee, Co-Chair (2014-2018)
- › Public Justice, Class Action Preservation Project, Member

**NOTABLE CASES**

- › \$72.5 Million Recovery in Solodyn Antitrust Action

In July 2018, the Honorable Denise J. Casper of the District of Massachusetts granted final approval to a \$72.5 million class settlement for direct purchasers of brand and generic Solodyn. HBSS was co-lead class counsel in this case alleging Medicis entered into a series of reverse payment deals to delay entry of generic Solodyn and used the period of delay to effectuate a product hop, all resulting in overcharges by direct purchasers. The case settled three days before trial.

*In re Solodyn Antitrust Litigation, D. Mass., MDL No. 2503*

**PARTNER**

## Lauren Guth Barnes

› \$15 Million Settlement of Antitrust Action Involving Asacol

In December 2017, the Honorable Denise Casper of the District of Massachusetts granted final approval to a \$15 million settlement on behalf of direct purchasers of Asacol. HBSS served as one member of an Executive Committee in this product hopping case against brand manufacturer Allergan plc and its predecessor Warner Chilcott alleging Warner Chilcott made minor, immaterial changes to its Asacol formulation, e.g., changing the dosage amount from 400mg to 800mg, and later changing the dosage form from tablet to capsule, for the sole purpose of preventing generic manufacturers from obtaining FDA approval for a generic product that could be automatically substituted for Asacol.

*In re Asacol Antitrust Litigation, D. Mass. 15-cv-12730*

› Antitrust action for direct purchasers of Skelaxin

On Sept. 24, 2014, Judge Curtis Collier of the Eastern District of Tennessee approved a \$73 million settlement for direct purchasers of Skelaxin in litigation alleging Skelaxin's manufacturer colluded with would-be generic competitors, fraudulently delaying generic competition and leading to higher prices. Metaxalone was sold under the brand name Skelaxin since 1962, but the original patent expired in 1979. Manufacturers applied to market generic metaxalone in 2002, and generic competitors remained foreclosed from marketing generic metaxalone until 2010. Hagens Berman served as lead counsel for direct purchasers.

*In re Skelaxin (Metaxalone) Antitrust Litigation, E.D.TN., Civil Action No. 1:12-md-2343.*

› Health care coverage for 40,000 legal immigrants in Massachusetts

On Jan. 5, 2012, the Massachusetts Supreme Judicial Court ruled unanimously that a state law barring 40,000 low-income legal immigrants from the state's universal health care program unconstitutionally violates those immigrants' rights to equal protection under the law and must be struck down. Hagens Berman served as pro bono counsel.

*Finch v. Commonwealth Health Insurance Connector Authority, Mass., Civil Action No. SJC-11025.*

› \$25 million for the state of Connecticut for Zyprexa fraud

On Oct. 5, 2009, U.S. District Court Judge Jack B. Weinstein approved a \$25 million settlement reached by the parties to conclude the state's Zyprexa litigation that alleged Lilly engaged in unlawful off-label promotion and misrepresented Zyprexa's safety and efficacy, resulting in millions of dollars in excess pharmaceutical costs. Hagens Berman served as outside counsel to Attorney General Richard Blumenthal.

*State of Connecticut v. Eli Lilly & Co., E.D.N.Y., Civil Action No. 08-cv-955-JBW.*

**PUBLICATIONS**

› "How Mandatory Arbitration Agreements and Class Action Waivers Undermine Consumer Rights and Why We Need Congress to Act," Harvard Law and Policy Review, August 2015

**PERSONAL INSIGHT**

Unlike many of her colleagues at HBSS, Lauren does not run marathons – unless chasing after her small children counts. Lauren did wrestle in college but refused to don the wrestling singlet. Whenever she can, Lauren rock climbs with her in-laws, breathes deeply at yoga, and hosts dinner parties to, despite usual advice, try totally new recipes. She also keeps the pizza delivery guy on speed dial as back-up for such occasions.



#### OF COUNSEL

## Gregory T. Arnold

*Greg devotes his practice to pursuing remedies for those injured by antitrust violations, particularly within the pharmaceutical industry.*

#### CONTACT

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#### YEARS OF EXPERIENCE

> 22

#### PRACTICE AREAS

> Antitrust Litigation  
> Personal Injury Litigation

#### BAR ADMISSIONS

> Massachusetts  
> U.S. District Court, District of Massachusetts  
> Court of Appeals, 2nd Circuit

#### EDUCATION

> Fairfield University, B.S., Marketing, 1991  
> Villanova University School of Law, J.D., 1996 (served on Law Review)

#### CURRENT ROLE

- > Of Counsel, Hagens Berman Sobol Shapiro LLP
- > Practice focuses on prosecution of large-scale, nationwide class actions, primarily against the pharmaceutical industry
- > Works on behalf of large health care providers, seeking recoveries from tortfeasors associated with payments the providers make as a result of the harm they have caused
- > Directs Hagens Berman's work on numerous pending Direct Purchaser Class Action cases, including In re Lipitor Antitrust Litigation, In re Effexor XR Antitrust Litigation, In re Ranbaxy Generic Drug Application Antitrust Litigation, and In re Actos Direct Purchaser Antitrust Litigation, as well as multiple actions brought on behalf of end payors

#### RECENT SUCCESS

- > Represented a variety of states, including the Commonwealth of Massachusetts, in their cases against the tobacco industry
- > Led efforts on behalf of three law firms protecting the interests of more than 25,000 asbestos sufferers, resulting in the denial of the debtors' proposed plan of reorganization and a substantial payment to the claimants
- > Prior bankruptcy experience included representing an Ad Hoc Committee of Trade Creditors in the *In re WorldCom* matter, resulting in a near 50% increase in the clients' recovery
- > Represented large groups of investors in litigation brought against offshore hedge funds, pursuing the recovery of hundreds of millions of dollars
- > Represented national and international clients on a full range of patent litigation issues, including proceedings before the International Trade Commission
- > Successful eminent domain trials, representing companies and individuals on a variety of labor and employment issues including non-compete agreements and various intellectual property matters

#### EXPERIENCE

- > Income Partner, Litigation Department for a large Boston-based law firm

#### NOTABLE CASES

- > Bankruptcy-related litigation
  - Lead efforts on behalf of three law firms protecting the interests of more than 25,000 claimants suffering from asbestos-related diseases, to block a proposed plan of reorganization. During more than 5 years of litigation, succeeded in forcing numerous changes to the proposed plan, including the

**OF COUNSEL**

## Gregory Arnold

voting methodology, amount of contribution and distributions. Pursued several interlocutory appeals throughout the case. Oversaw and managed all aspects of this complex litigation, culminating in a successful 20-day bench trial conducted in the Bankruptcy Court for the Southern District of New York, after which the Court rejected the proposed bankruptcy plan, thereby securing a substantial benefit for the clients.

- One of a team of lawyers representing the interests of The Ad Hoc Committee of Trade Creditors in the *In re WorldCom* matter, resulting in increasing our clients' recoveries by nearly 50%.

### › Mass Torts/Class Actions

- Played pivotal role in representing the Commonwealth of Massachusetts in landmark litigation against the Tobacco Industry, including establishing personal jurisdiction in Massachusetts over the United Kingdom-based parent company to Brown & Williamson. This work product, as well as the resulting Court decision, was relied upon by Attorneys General throughout the country in their cases against the Tobacco Industry.
- Following the Commonwealth of Massachusetts' action, lead Brown Rudnick's efforts in pursuing a class action case brought against a major credit card issuer, obtaining a denial of class certification and dismissal of individual's claims.

### › Complex Financial Litigation

- Successfully represented a group of more than 65 investors in offshore hedge funds, pursuing recoveries for over \$600 million of invested capital lost due to fraudulent practices of hedge fund manager.

### › General Commercial Litigation

- Represented former attorney whose malpractice insurer had refused defense and indemnity after an office worker embezzled millions of dollars in client funds. Following a five-week Superior Court trial, secured a verdict in favor of the client, holding the insurance company responsible for more than \$2 million in liability to the insured's former client. Successfully defended insurer's appeal of the trial court decision in the Appeals Court. Subsequently brought a case against the insurance company under Chapter 93a, resulting in a multimillion-dollar recovery for the client.
- Obtained a substantial recovery for a client whose intellectual property was wrongfully assigned to a third-party. Achieved a pre-trial settlement with the assigning party while pursuing a bench trial in Middlesex Superior Court against the party using the software.
- Served as "first chair" in a complex, multi-week bench trial in federal court over breach of multimillion-dollar commercial contract concerning sale of radiology equipment, including prevailing on counter-claim seeking to impose multimillion-dollar liability.

### › Patent Litigation

- Represented national and international clients on a full range of patent litigation issues, including trials. Successful litigator before the United States International Trade Commission, including obtaining favorable outcome for a client protecting their intellectual property rights against an infringer based in Sweden.

**OF COUNSEL**

## Gregory Arnold

› **Labor and Employment Litigation**

- Defended client interests in a variety of matters, including those involving non-competition agreements, wrongful terminations, and harassment claims.
- Successfully represented companies enforcing non-compete agreements against former employees, as well as new employers/former employees in avoiding the terms of non-compete agreements. Handled trials before administrative bodies, including the U.S. Department of Labor, including defending a client against claims made under the Surface Transportation Assistance Act ("STAA") following the termination of an employee/truck driver.

› **Other Litigation**

- Represented client in an eminent domain trial, resulting in a jury award more than 10 times the Commonwealth's pro tanto offer.

**PERSONAL INSIGHT**

Greg is married with three children and lives in Mansfield, MA. Greg played varsity ice hockey in college.

## INTRODUCTION Locations

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